

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 683.

JOSEPH F. ARVER, PLAINTIFF IN ERROR,

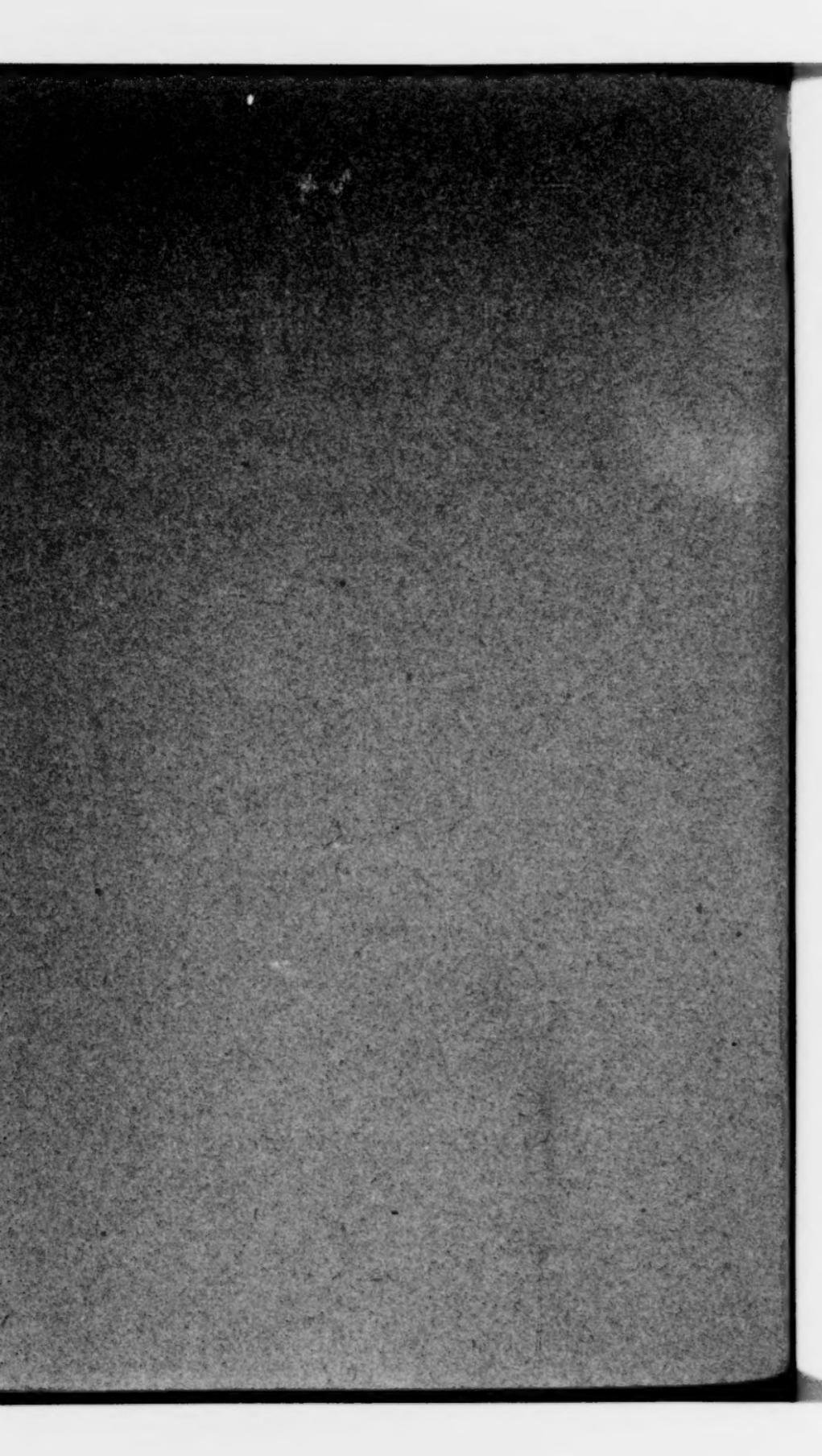
vs.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.**

FILED SEPTEMBER 7, 1917.

(26,180)



(26,130)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 663.

JOSEPH F. ARVER, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.

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1 United States District Court, District of Minnesota, Third Division.

No. 317.

THE UNITED STATES, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Pleas Before the Honorable the Judges of the United States District Court for the District of Minnesota.

June Term, A. D. 1917.

No. 317.

THE UNITED STATES, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Be it remembered, that on the 8th day of June, A. D. 1917, the Grand Jury of the United States of America in and for the District of Minnesota, Third Division, presented against Joseph F. Arver, the defendant in the above entitled cause, their True Bill of Indictment in the words and figures following, to-wit:

The District Court of the United States of America for the District of Minnesota, Third Division.

At a stated term of the District Court of the United States of America for the District of Minnesota, begun and held at the City of St. Paul, within and for the District and Division aforesaid, on the first Tuesday in June, being the fifth day of June, in the year of our Lord one thousand nine hundred and seventeen, by a duly empanelled, charged and sworn Grand Jury of the United States of America within and for said District and Division, it is presented in manner and form following, that is to say:

2 UNITED STATES OF AMERICA,
District of Minnesota, Third Division, set:

The Grand Jurors of the United States of America within and for said District and Division, in the name and by the authority of the said United States of America, upon their oaths present, that heretofore, to wit: on the fifth day of June, A. D. 1917, at the City of St. Paul, in the County of Ramsey, in the State and District of Minnesota, and within the jurisdiction of this Court, one Joseph

F. Arver, then and there being, late of said District, did then and there wrongfully, and unlawfully willfully fail and refuse to register, and to present himself for registration, as required by Section five of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," and the Proclamation by the President of the United States under date of May 19, 1917, designating June 5, 1917, as registration day, and the regulations prescribed by the President; he, the said Joseph F. Arver being then and there a male person between the ages of twenty-one and thirty years, both inclusive, and being then and there subject to registration, and not being an officer and enlisted man of the Regular Army, the Navy, the National Guard or Naval Militia while in the service of the United States; which is against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

J. M. DICKEY,
Assistant United States Attorney.

(Endorsed:) Indictment. A True Bill. P. K. Gilfillan, Foreman of the Grand Jury. Names of Witnesses examined before the Grand Jury. Irving Best, L. C. Hodgson, T. E. Campbell, L. U. Spehr. Alfred Jaques, United States Attorney. Filed June 8th, 1917. Charles L. Spencer, Clerk.

3 And thereafter, and on the 5th day of July, A. D. 1917, certain proceedings were had in said court in said cause, which were duly recorded in the words and figures following, to-wit:

United States District Court, District of Minnesota, Third Division,

Term Minutes, June Term, A. D. 1917.

JULY 5th, 1917.

Court opened pursuant to adjournment.

Present: Honorable Page Morris, Judge.

THE UNITED STATES OF AMERICA, Plaintiff,
against

JOSEPH F. ARVER, Defendant.

Judgment and Sentence.

Now, on this 5th day of July, A. D. 1917, the United States Attorney for the District of Minnesota, and the defendant in the above entitled action, Joseph F. Arver, in his own proper person, come into open court, and the said United States Attorney moves the Court that judgment be now rendered against and sentence pro-

nounced upon said defendant in accordance with the verdict, heretofore duly rendered by a jury and entered in said action that said defendant is guilty as charged in the indictment in said action against said defendant for the crime of having wrongfully and unlawfully, wilfully failed and refused to register and present himself for registration as required by Section 5 of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," committed at St. Paul, in the County of Ramsey, in the State and District of Minnesota, on the 5th day of June, A. D. 1917; and said defendant is asked by the Court whether he has anything to say why judgment should not now be rendered and sentence pronounced as aforesaid, but neither he nor any one for him says anything in arrest thereof; whereupon, in accordance with said verdict, it is by the Court

4 Considered and adjudged that said defendant is guilty of the crime aforesaid and that as punishment therefor said defendant be confined in the Minnesota State Reformatory, in said State, situated at St. Cloud, Minnesota, for the term of one (1) year and until he shall have been discharged from said reformatory by due course of law.

And thereafter, and on the 9th day of August, A. D. 1917, a certain bill of exceptions was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

5 United States District Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Bill of Exceptions.

Be it remembered that on the 8th day of June, 1917, at the City of Saint Paul, State of Minnesota, the Grand Jury of the United States of America within and for said District being duly empaneled, sworn and charged to inquire within and for said District of Minnesota, in the name and by the authority of the United States of America, upon their oaths did find and present as a true bill, an indictment charging that the above named defendant, Joseph F. Arver, did wilfully fail and refuse to register and to present himself for registration as required by Section five of the Act of Congress approved May 18, 1917, entitled, "An Act to authorize the President to increase temporarily the Military establishment of the United States," and the Proclamation of the President of the United States under date of May 19th, 1917, designating June 5th, 1917, as registration day, and the regulations prescribed by the President.

That thereafter, on the 11th day of June, 1917, at such place said defendant Joseph F. Arver appeared in person and by his attorney T. E. Latimer, Esq., before the Honorable Page Morris, Judge of said Court, and being duly arraigned, thereupon entered 6 his plea to the said indictment herein, through his attorney, and did say that he is not guilty in manner and form as in and by said indictment he stands charged.

That thereupon the court ordered that defendant be given until two P. M. on the 13th day of June, 1917, to withdraw the said plea.

That thereafter on said 13th day of June, 1917, defendant Joseph F. Arver, and his counsel, T. E. Latimer, Esq., appeared before the bar of this court and withdrew his plea of not guilty by leave of court, and did then and there demur to said indictment upon the following grounds, to-wit:

1. That the said indictment does not state facts sufficient to constitute an offense.

2. That the said Act of Congress and the Regulations prescribed by the President thereunder, set forth in said indictment, are in conflict with the terms and provisions of the 13th Amendment to the Constitution of the United States of America, and are therefore null and void.

3. That the said Act of Congress and the regulations prescribed thereunder, set forth in said indictment, are in conflict with the terms and provisions of Section one of Article One, and Section eight of Article One, of the Constitution of the United States of America, and therefore null and void.

That thereafter, on the 22nd day of June, 1917, the argument of said demurrer was heard before the Honorable Wilbur F. Booth, Judge of said Court; Defendant appearing by Herbert L. Dunn, and T. E. Latimer, his attorneys, and plaintiff, appearing by Alfred Jacques, Esq., United States District Attorney for the District of Minnesota; and having been submitted and duly and maturely considered by the Court, the court ordered: That the said demurrer to the indictment be and hereby is overruled, to which ruling the defendant did then and there duly except, and said exception was allowed by the court.

7 That thereupon defendant did again plead not guilty to said indictment, and the court set his trial for the 2nd day of July, 1917, and 10 O'clock A. M.

Thereafter, on the 2nd Day of July, 1917, at 10 O'clock A. M. said cause was called for trial before the Honorable Page Morris, Judge of said Court, and a jury of twelve good and lawful men, and the said plaintiff appearing by its attorney Alfred Jacques, Esq., and the defendant appearing by his attorneys, T. E. Latimer, Esq., and Herbert L. Dunn, Esq., and Herman W. Phillips, Esq., the following proceedings were had, that is to say:

Plaintiff introduced its evidence, and defendant rested without presenting any, whereupon the court charged the jury, and the jury retired, and brought in a verdict of guilty as charged in the indictment.

Thereupon judgment was rendered, and defendant sentenced to

confinement for the period of one year in the County Jail of Ramsey County, Minnesota.

Thereafter on July 5th, 1917, defendant appearing in person and by his said counsel before the said trial Court, the said judgment and sentence were in all things vacated and set aside, and thereupon the court rendered judgment and sentenced defendant to confinement in the Minnesota State Reformatory at St. Cloud, Minnesota, for the period of one year.

It is hereby stipulated between the parties to this cause that the above and foregoing may be settled, allowed and signed by the Judge of this Court, and filed as the Bill of Exceptions in this cause.

Dated this 8 day of August, 1917.

ALFRED JAQUES,
U. S. Attorney,
Attorney for Plaintiff.
T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

8 Pursuant to the foregoing stipulation, tendering the above as the Bill of Exceptions reserved by defendant upon the trial of this cause, I hereby allow the same this 9th day of August, A. D. 1917.

PAGE MORRIS,
Judge of the United States District Court,
District of Minnesota.

(Endorsed:) Bill of Exceptions. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain assignment of error and prayer for reversal was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

9 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Assignment of Error and Prayer for Reversal.

The defendant in this action in connection with his petition for a Writ of Error, makes and files the following assignment of error, which he avers occurred upon the trial of the cause, to-wit:

1.

The court erred in overruling the demurrer of the defendant to the indictment.

Wherefore, the defendant for the error aforesaid prays that the judgment herein may be reversed, vacated and held for naught and that said defendant may be restored in all things to that which he has lost thereby.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Assignment of Error and Prayer for Reversal. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain petition for writ of error was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

10 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Petition for Writ of Error.

And now comes Joseph F. Arver, defendant herein, and says that on or about the fifth day of July, A. D. 1917, this Court entered judgment and sentence herein against this defendant, in which judgment, sentence and the proceedings had prior thereunto in this cause certain errors were committed to the prejudice of this defendant, all of which will more in detail appear from the assignments of error which is filed with this petition.

Wherefore, this defendant prays that a writ of error may issue in his behalf out of the Supreme Court of the United States, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated may be sent to the said Supreme Court of the United States.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Petition for Writ of Error. Filed August 9th, 1917.
Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain order allowing writ of error and fixing bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

11 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Order Allowing Writ of Error and Fixing Bond.

This 9th day of August, A. D. 1917, came the defendant by his attorney, and filed herein, and presented to the Court his petition, and assignments of error intended to be urged by him, praying for the allowance of a Writ of Error and that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the Writ of Error upon the defendant giving bond according to law in the sum of one thousand dollars (\$1000.00), which shall operate as an appearance bond.

PAGE MORRIS,

*Judge of District Court of the United States,
for the District of Minnesota.*

(Endorsed:) Order allowing Writ of Error and fixing Bond.
Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain appearance bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

12

Appearance Bond.

Know all men by these presents:

That we, Joseph F. Arver, as principal, and Julius Perlt and Charles J. Buell, as sureties, are held and firmly bound unto the United States of America in the full and just sum of one thousand dollars (\$1000.00), to be paid to the United States of America, to which payment well — truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 8th day of August in the year of our Lord, 1917.

Whereas, lately at the June Term, A. D. 1917, of the District Court of the United States, for the District of Minnesota, in a suit pending in said Court between the United States of America, plaintiff, and Joseph F. Arver, defendant, a judgment and sentence ren-

dered against the said defendant, Joseph F. Arver, and the said Joseph F. Arver has obtained a writ of Error from the Supreme Court of the United States, to reverse the judgment and sentence in the aforesaid cause, and a citation directed to the said United States of America, citing and admonishing the United States of America, to be and appear in the Supreme Court of the United States, at the City of Washington, District of Columbia, thirty days from and after the date of said citation, which citation has been duly served. Now the condition of the above obligation is such that if the said Joseph F. Arver, shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error and shall abide by and obey all orders made by the Supreme Court of the United States in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for 13 the District of Minnesota, Third Division, on such day or days as may be appointed for a retrial by said District Court and abide by and obey all orders made by said Court provided the judgment and sentence against him shall be reversed by the Supreme Court of the United States; then the above obligation shall be void, otherwise to remain in full force, virtue and effect.

JOSEPH F. ARVER.
JULIUS PERLT.
CHARLES J. BUELL.

Signed, Sealed and Delivered in the Presence of

F. RATHSMANN.
FRED MILLER.

STATE OF MINNESOTA,

County of Ramsey, ss:

Be it known, that on this 8th day of August, A. D. 1917, came before me personally Joseph F. Arver, Julius Perlt and Charles J. Buell to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[NOTARIAL SEAL.]

FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission expires January 31, 1918.

STATE OF MINNESOTA,

County of Ramsey, ss:

Julius Perlt and Charles J. Buell, upon oath doth say, each for himself, that he is one of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota, and worth the

amount of two thousand dollars, above his debts and liabilities, and exclusive of his property which is exempt from execution.

JULIUS PERLT.
CHARLES J. BUELL.

Subscribed and sworn to before me this 8th day of August, A. D.: 1917.

[NOTARIAL SEAL.]

FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission Expires January 31, 1918.

The foregoing bond is hereby approved this 9th day of August, 1917.

PAGE MORRIS,
*Judge of the District Court of the United States,
District of Minnesota.*

14 (Endorsed:) Appearance Bond. Filed August 9th, 1917.
Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain citation, theretofore issued, was filed in the office of the Clerk of said Court in said cause which said citation here next follows:

15 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

Citation.

United States of America, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States of America, at the City of Washington, District of Columbia, thirty days from and after the day this citation bears date pursuant to a Writ of Error filed in the office of the Clerk of the United States District Court, for the District of Minnesota wherein Joseph F. Arver is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment and sentence rendered against said plaintiff in error, as in said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Dated this 9th day of August, A. D. 1917.

PAGE MORRIS,
*Judge of the District Court of the United States
for the District of Minnesota.*

Due service of the foregoing citation upon me at St. Paul, Minnesota, on the 9th day of August, 1917, is hereby admitted.

ALFRED JAQUES,
*United States Attorney and
 Attorney for Plaintiff.*

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk U. S. District Court, District of Minnesota.

16 And thereafter, and on the same day, a certain praecipe for transcript of record was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

17 The District Court of the United States, District of Minnesota,
 Third Division.

UNITED STATES OF AMERICA, Plaintiff,
 vs.

JOSEPH F. ARVER, Defendant.

Praecipe for Transcript of Record.

To the Clerk:

You are requested to make and forward a transcript of record to be filed in the Supreme Court of the United States pursuant to a Writ of Error allowed in the above entitled cause and to include in such transcript of record the following and no other copies of papers, to-wit:

1. Indictment,
2. Judgment and sentence,
3. Bill of Exceptions,
4. Assignments of Error,
5. Petition for Writ of Error,
6. Order allowing Writ of Error and Fixing Bond,
7. Appearance Bond on Writ of Error,
8. This Praecipe for transcript of record.

T. E. LATIMER &
 HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Praecipe for Transcript of Record. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a writ of error from the Supreme Court of the United States was filed in the office of the Clerk of said Court in said cause, which said writ of error and certificate of obedience thereto here next follows:

18 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the Honorable the Judges of the District Court of the United States for the District of Minnesota, Third Division, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, at the June Term, 1917, thereof, between The United States of America, Plaintiff and Joseph F. Arver, Defendant, manifest error hath happened, to the great damage of the said Joseph F. Arver as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, and then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the capitol in the City of Washington, District of Columbia, and filed in the office of the Clerk of the Supreme Court of the United States, on or before the 8th day of September, 1917, to the end that the record and proceedings aforesaid, being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 9th day of August, A. D. 1917.

Issued at office in St. Paul, Minnesota, with the seal of the District Court of the United States for the District of Minnesota, Third Division,

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,

*Clerk of the District Court of the United States
of America for the District of Minnesota.*

Allowed by

PAGE MORRIS, *Judge.*

Filed August 9th, 1917.

CHARLES L. SPENCER,

Clerk, U. S. District Court, District of Minnesota.

UNITED STATES OF AMERICA,

District of Minnesota, Third Division, ss:

In obedience to the command of the writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript

of the records and proceedings in the within entitled cause, with all things concerning the same.

In Witness Whereof, I hereto subscribe my name and affix the seal of the District Court of the United States for the District of Minnesota, Third Division,

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

19 United States District Court, District of Minnesota, Third Division.

No. 317.

THE UNITED STATES, Plaintiff,

vs.

JOSEPH F. ARVER, Defendant.

I, Charles L. Spencer, Clerk of said Court, do hereby certify and return to the Honorable, the Supreme Court of the United States, that the foregoing, consisting of 17 pages, numbered consecutively from 1 to 17, inclusive, is a true and complete transcript of all the records, process, pleadings, orders, final judgment and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said Court, and in accordance with a practice for such transcript, a copy whereof is included within said transcript; and I do further certify and return that I have annexed to said transcript, and included within said paging, the original Citation, together with the admission of service thereof.

In witness whereof, I have hereunto set my hand as the Clerk aforesaid, and affixed the seal of said Court, at St. Paul, in the District of Minnesota, this 11th day of August, A. D. 1917.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER, *Clerk.*

20 [Endorsed:] United States District Court, District of Minnesota, Third Division. No. 317. The United States vs. Joseph F. Arver. Transcript of Record on Writ of Error.

Endorsed on cover: File No. 26,130. Minnesota D. C. U. S. Term No. 663. Joseph F. Arver, plaintiff in error, vs. The United States of America. Filed September 7th, 1917. File No. 26,130.

CLERK'S COPY.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 664.

ALFRED F. GRAHL, PLAINTIFF IN ERROR,

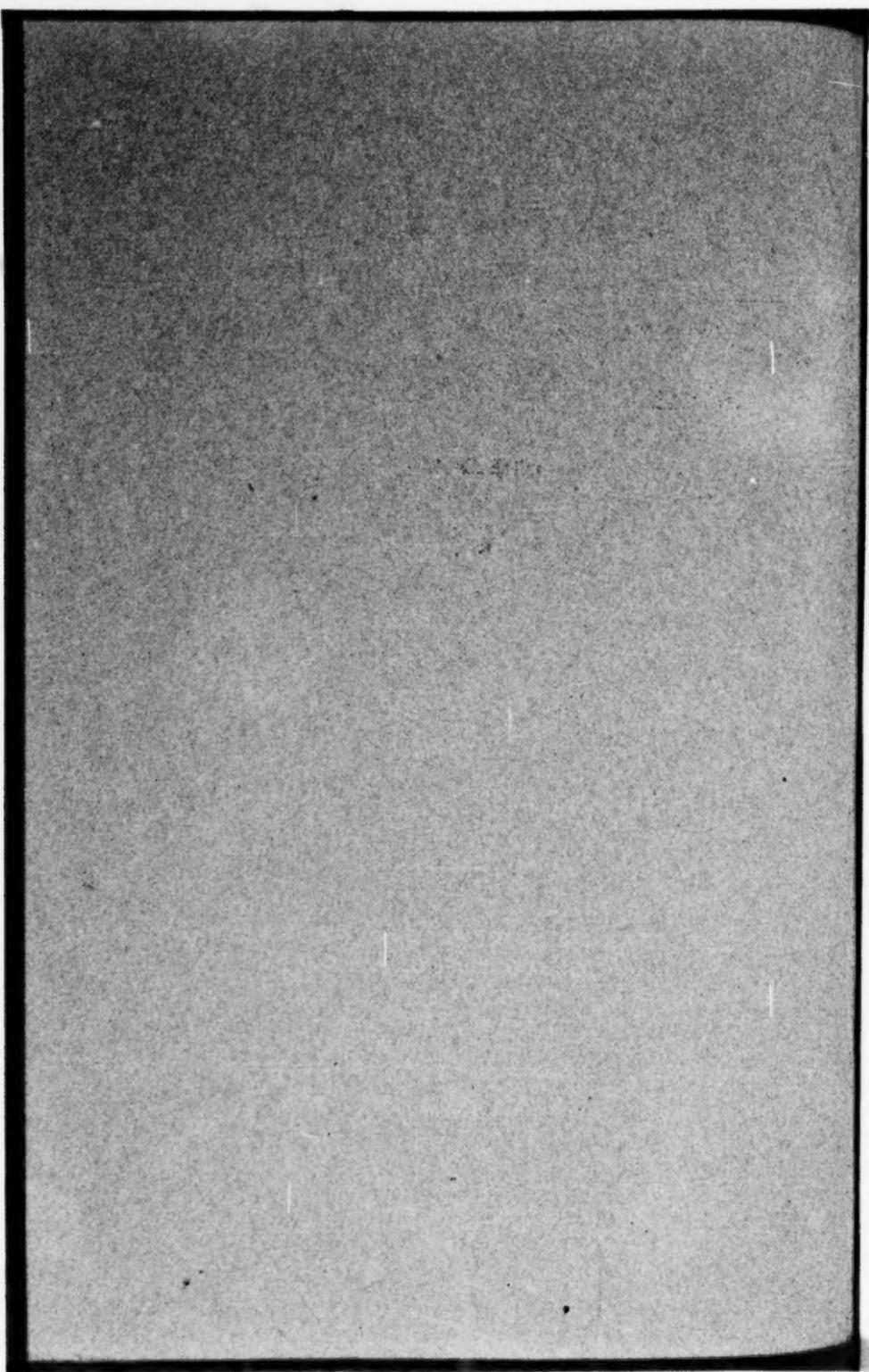
v.s.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.**

FILED SEPTEMBER 7, 1917.

(26,131)



(26,131)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 664.

ALFRED F. GRAHL, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
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1 United States District Court, District of Minnesota, Third Division.

No. 318.

THE UNITED STATES, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Pleas Before the Honorable the Judges of the United States District Court for the District of Minnesota.

June Term, A. D. 1917.

No. 318.

THE UNITED STATES, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Be it remembered, that on the 8th day of June, A. D. 1917, the Grand Jury of the United States of America in and for the District of Minnesota, Third Division, presented against Joseph F. Arver, the defendant in the above entitled cause, their True Bill of Indictment in the words and figures following, to-wit:

The District Court of the United States of America for the District of Minnesota, Third Division.

At a stated term of the District Court of the United States of America for the District of Minnesota, begun and held at the City of St. Paul, within and for the District and Division aforesaid, on the first Tuesday in June, being the fifth day of June, in the year of our Lord one thousand nine hundred and seventeen, by a duly empanelled, charged and sworn Grand Jury of the United States of America within and for said District and Division, it is presented in manner and form following, that is to say:

2 UNITED STATES OF AMERICA.

District of Minnesota, Third Division, set:

The Grand Jurors of the United States of America within and for said District and Division, in the name and by the authority of the said United States of America, upon their oaths present, that heretofore, to wit: on the fifth day of June, A. D. 1917, at the City of St. Paul, in the County of Ramsey, in the State and District of Minnesota, and within the jurisdiction of this Court, one Alfred

F. Grahl, then and there being, late of said District, did then and there wrongfully, and unlawfully wilfully fail and refuse to register, and to present himself for registration, as required by Section five of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," and the Proclamation by the President of the United States under date of May 19, 1917, designating June 5, 1917, as registration day, and the regulations prescribed by the President; he, the said Alfred F. Grahl being then and there a male person between the ages of twenty-one and thirty years, both inclusive, and being then and there subject to registration, and not being an officer and enlisted man of the Regular Army, the Navy, the National Guard or Naval Militia while in the service of the United States; which is against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

J. M. DICKEY,
Assistant United States Attorney.

(Endorsed:) Indictment. A True Bill. P. K. Gilfillan, Foreman of the Grand Jury. Names of Witnesses examined before the Grand Jury, James H. Daley, L. C. Hodson, T. E. Campbell, Alfred Jaques, United States Attorney. Filed June 8th, 1917. Charles L. Spencer, Clerk.

3 And thereafter, and on the 5th day of July, A. D. 1917, certain proceedings were had in said court in said cause, which were duly recorded in the words and figures following, to-wit:

United States District Court, District of Minnesota, Third Division,

Term Minutes, June Term, A. D. 1917.

JULY 5th, 1917.

Court opened pursuant to adjournment.

Present: Honorable Page Morris, Judge.

THE UNITED STATES OF AMERICA, Plaintiff,
against

ALFRED F. GRAHL, Defendant.

Judgment and Sentence.

Now, on this 5th day of July, A. D. 1917, the United States Attorney for the District of Minnesota, and the defendant in the above entitled action, Alfred F. Grahl, in his own proper person, come into open court, and the said United States Attorney moves

the Court that judgment be now rendered against and sentence pronounced upon said defendant in accordance with the verdict, heretofore duly rendered by a jury and entered in said action that said defendant is guilty as charged in the indictment in said action against said defendant for the crime of having wrongfully and unlawfully, wilfully failed and refused to register and present himself for registration as required by Section 5 of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," committed at St. Paul, in the County of Ramsey, in the State and District of Minnesota, on the 5th day of June, A. D. 1917; and said defendant is asked by the Court whether he has anything to say why judgment should not now be rendered and sentence pronounced as aforesaid, but neither he nor any one for him says anything in arrest thereof; whereupon, in accordance with said verdict,

it is by the Court

4 Considered and adjudged that said defendant is guilty of the crime aforesaid and that as punishment therefor said defendant be confined in the Minnesota State Reformatory, in said State, situated at St. Cloud, Minnesota, for the term of one (1) year and until he shall have been discharged from said reformatory by due course of law.

And thereafter, and on the 9th day of August, A. D. 1917, a certain bill of exceptions was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

5 United States District Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Bill of Exceptions.

Be it remembered that on the 8th day of June, 1917, at the City of Saint Paul, State of Minnesota, the Grand Jury of the United States of America within and for said District being duly empaneled, sworn and charged to inquire within and for said District of Minnesota, in the name and by the authority of the United States of America, upon their oaths did find and present as a true bill, an indictment charging that the above named defendant, Alfred F. Grahl, did wilfully fail and refuse to register and to present himself for registration as required by Section five of the Act of Congress approved May 18, 1917, entitled, "An Act to authorize the President to increase temporarily the Military establishment of the United States," and the Proclamation of the President of the United States under date of May 19th, 1917, designating June 5th, 1917, as registration day, and the regulations prescribed by the President.

That thereafter, on the 11th day of June, 1917, at such place said defendant Alfred F. Grahl appeared in person and by his attorney T. E. Latimer, Esq., before the Honorable Page Morris, Judge of said Court, and being duly arraigned, stated that his true name was Alfred F. Grahl, and thereupon entered his plea to the said indictment herein, through his attorney, and did say that he is not guilty in manner and form as in and by said indictment he stands charged.

That thereupon the court ordered that defendant be given until two P. M. on the 13th day of June, 1917, to withdraw the said plea.

That thereafter on said 13th day of June, 1917, defendant Alfred F. Grahl, and his counsel, T. E. Latimer, Esq., appeared before the bar of this court and withdrew his plea of not guilty by leave of court, and did then and there demur to said indictment upon the following grounds, to-wit:

1. That the said indictment does not state facts sufficient to constitute an offense.

2. That the said Act of Congress and the Regulations prescribed by the President thereunder, set forth in said indictment, are in conflict with the terms and provisions of the 13th Amendment to the Constitution of the United States of America, and are therefore null and void.

3. That the said Act of Congress and the regulations prescribed thereunder, set forth in said indictment, are in conflict with the terms and provisions of Section one of Article One, and Section eight of Article One, of the Constitution of the United States of America, and therefore null and void.

That thereafter, on the 22nd day of June, 1917, the argument of said demurrer was heard before the Honorable Wilbur F. Booth, Judge of said Court; Defendant appearing by Herbert L. Dunn, and T. E. Latimer, his attorneys, and plaintiff, appearing by Alfred Jacques, Esq., United States District Attorney for the District of Minnesota; and having been submitted and duly and maturely considered by the Court, the court ordered: That the said demurrer to the indictment be and hereby is overruled, to which ruling the defendant did then and there duly except, and said exception was allowed by the court.

7 That thereupon defendant did again plead not guilty to said indictment, and the court set his trial for the 2nd day of July, 1917, at 10 O'clock A. M.

Thereafter, on the 2nd Day of July, 1917, at 10 O'clock A. M., said cause was called for trial before the Honorable Page Morris, Judge of said Court, and a jury of twelve good and lawful men, and the said plaintiff appearing by its attorney Alfred Jacques, Esq., and the defendant appearing by his attorneys, T. E. Latimer, Esq., and Herbert L. Dunn, Esq., and Hermon W. Phillips, Esq., the following proceedings were had, that is to say:

Plaintiff introduced its evidence, and defendant rested without presenting any, whereupon the court charged the jury, and the jury retired, and brought in a verdict of guilty as charged in the indictment.

Thereupon judgment was rendered, and defendant sentenced to confinement for the period of one year in the County Jail of Ramsey County, Minnesota.

Thereafter on July 5th, 1917, defendant appearing in person and by his said counsel before the said trial Court, the said judgment and sentence were in all things vacated and set aside, and thereupon the court rendered judgment and sentenced defendant to confinement in the Minnesota State Reformatory at St. Cloud, Minnesota, for the period of one year.

It is hereby stipulated between the parties to this cause that the above and foregoing may be settled, allowed and signed by the Judge of this Court, and filed as the Bill of Exceptions in this cause.

Dated this 8 day of August, 1917.

ALFRED JAQUES,

U. S. Attorney,

Attorney for Plaintiff.

T. E. LATIMER &

HERBERT L. DUNN,

Attorneys for Defendant.

8 Pursuant to the foregoing stipulation, tendering the above as the Bill of Exceptions reserved by defendant on the trial of this cause, I hereby allow the same this 9th day of August, 1917.

PAGE MORRIS,

Judge of the United States District Court,

District of Minnesota.

(Endorsed:) Bill of Exceptions. Filed August 9th, 1917. Charles L. Spence, Clerk.

And thereafter, and on the same day, a certain assignment of error and prayer for reversal was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

9 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Assignment of Error and Prayer for Reversal.

The defendant in this action in connection with his petition for a Writ of Error, makes and files the following assignment of error, which he avers occurred upon the trial of the cause, to-wit:

1.

The court erred in overruling the demurrer of the defendant to the indictment,

Wherefore, the defendant for the error aforesaid prays that the judgment herein may be reversed, vacated and held for naught and that said defendant may be restored in all things to that which he has lost thereby.

T. E. LATIMER AND
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Assignment of Error and Prayer for Reversal. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain petition for writ of error was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

10 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.

ALFRED F. GRAHL, Defendant.

Petition for Writ of Error.

And now comes Alfred F. Grahl, defendant herein, and says that on or about the fifth day of July, A. D. 1917, this Court entered judgment and sentence herein against this defendant, in which judgment, sentence and the proceedings had prior thereto in this cause certain errors were committed to the prejudice of this defendant, all of which will more in detail appear from the assignments of error which is filed with this petition.

Wherefore, this defendant prays that a writ of error may issue in his behalf out of the Supreme Court of the United States, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated may be sent to the said Supreme Court of the United States.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Petition for Writ of Error. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain order allowing writ of error and fixing bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

11 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Order Allowing Writ of Error and Fixing Bond.

This 9th day of August, A. D. 1917, came the defendant by his attorney, and filed herein, and presented to the Court his petition, and assignments of error intended to be urged by him, praying for the allowance of a Writ of Error and that a transcript of the records and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the Writ of Error upon the defendant giving bond according to law in the sum of one thousand dollars (\$1000.00), which shall operate as an appearance bond.

PAGE MORRIS,

*Judge of District Court of the United States
for the District of Minnesota.*

(Endorsed:) Order allowing Writ of Error and fixing Bond.
Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain appearance bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

12

Appearance Bond.

Know all men by these presents:

That we, Alfred F. Grahl, as principal, and August Prohofsky and Frank A. Webster, as sureties, are held and firmly bound unto the United States of America in the full and just sum of one thousand dollars (\$1000.00), to be paid to the United States of America, to which payment well — truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 8th day of August in the year of our Lord, 1917.

Whereas, lately at the June Term, A. D. 1917, of the District Court of the United States, for the District of Minnesota, in a suit pending in said Court between the United States of America, plaintiff, and Alfred F. Grahl, defendant, a judgment and sentence ren-

dered against the said defendant, Alfred F. Grahl, and the said Alfred F. Grahl has obtained a writ of Error from the Supreme Court of the United States, to reverse the judgment and sentence in the aforesaid cause, and a Citation directed to the said United States of America, citing and admonishing the United States of America, to be and appear in the Supreme Court of the United States, at the City of Washington, District of Columbia, thirty days from and after the date of said citation, which citation has been duly served. Now the condition of the above obligation is such that if the said Alfred F. Grahl, shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error and shall abide by and obey all orders made by the Supreme Court of the United States in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for 13 the District of Minnesota, Third Division, on such day or days as may be appointed for a retrial by said District Court and abide by and obey all orders made by said Court provided the judgment and sentence against him shall be reversed by the Supreme Court of the United States; then the above obligation shall be void, otherwise to remain in full force, virtue and effect.

ALFRED F. GRAHL.
AUGUST PROHOFSKY.
FRANK A. WEBSTER.

Signed, Sealed and Delivered in the Presence of
F. RATHSMANN.
FRED MILLER.

STATE OF MINNESOTA,
County of Ramsey, ss:

Be it known, that on this 8th day of August, A. D. 1917, came before me personally Alfred F. Grahl, August Prohofsky and Frank A. Webster to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[NOTARIAL SEAL.]

FRED MILLER.
Notary Public, Ramsey County, Minn.

My Commission expires January 31, 1918.

STATE OF MINNESOTA,
County of Ramsey, ss:

August Prohofsky and Frank A. Webster, upon oath doth say, each for himself, that he is one of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota, and worth the amount of two thousand dollars, above his debts and

liabilities, and exclusive of his property which is exempt from execution.

AUGUST PROHOF SKY.

FRANK A. WEBSTER.

Subscribed and sworn to before me this 8th day of August, A. D. 1917.

[NOTARIAL SEAL.]

FRED MILLER,

Notary Public, Ramsey County, Minn.

My Commission Expires January 31, 1918.

The foregoing bond is hereby approved this 9th day of August, 1917.

PAGE MORRIS,

*Judge of the District Court of the United States,
District of Minnesota.*

14 (Endorsed:) Appearance Bond. Filed August 9th, 1917.
Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain citation, theretofore issued, was filed in the office of the Clerk of said Court in said cause which said citation here next follows:

15 District Court of the United States, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

Citation.

United States of America, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States of America, at the City of Washington, District of Columbia, thirty days from and after the day this citation bears date pursuant to a Writ of Error filed in the office of the Clerk of the United States District Court, for the District of Minnesota, wherein Alfred F. Grahl is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment and sentence rendered against said plaintiff in error, as in said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Dated this 9th day of August, A. D. 1917.

PAGE MORRIS,

*Judge of the District Court of the United States
for the District of Minnesota.*

Due service of the foregoing citation upon me at St. Paul, Minnesota, on the 9th day of August, 1917, is hereby admitted.

ALFRED JAQUES,
*United States Attorney and
Attorney for Plaintiff.*

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk, U. S. District Court, District of Minnesota.

16 And thereafter, and on the same day, a certain praecipe for transcript of record was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

17 The District Court of the United States, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.

ALFRED F. GRAHL, Defendant.

Praecipe for Transcript of Record.

To the Clerk:

You are requested to make and forward a transcript of record to be filed in the Supreme Court of the United States pursuant to a Writ of Error allowed in the above entitled cause and to include in such transcript of record the following and no other copies of papers, to-wit:

1. Indictment.
2. Judgment and sentence.
3. Bill of Exceptions.
4. Assignments of Error.
5. Petition for Writ of Error.
6. Order allowing Writ of Error and Fixing Bond.
7. Appearance Bond on Writ of Error.
8. This Praecipe for transcript of record.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Praecipe for Transcript of Record. Filed August 9th, 1917. Charles L. Spence, Clerk.

And thereafter, and on the same day, a writ of error from the Supreme Court of the United States was filed in the office of the Clerk of said Court in said cause, which said writ of error and certificate of obedience thereto here next follows:

18 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the Honorable the Judges of the District Court of the United States for the District of Minnesota, Third Division, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, at the June Term, 1917, thereof, between The United States of America, Plaintiff and Alfred F. Grahl, Defendant, manifest error hath happened, to the great damage of the said Alfred F. Grahl as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, and then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the capitol in the City of Washington, District of Columbia, and filed in the office of the Clerk of the Supreme Court of the United States, on or before the 8th day of September, 1917, to the end that the record and proceedings aforesaid, being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 9th day of August, A. D. 1917.

Issued at office in St. Paul, Minnesota, with the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

Allowed by

PAGE MORRIS, Judge.

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk, U. S. District Court, District of Minnesota.

UNITED STATES OF AMERICA,

District of Minnesota, Third Division, ss:

In obedience to the command of the writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the records and proceedings in the within entitled cause, with all things concerning the same.

In Witness Whereof, I hereto subscribe my name and affix the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

19 United States District Court, District of Minnesota, Third Division.

No. 318.

THE UNITED STATES, Plaintiff,

vs.

ALFRED F. GRAHL, Defendant.

I, Charles L. Spencer, Clerk of said Court, do hereby certify and return to the Honorable, the Supreme Court of the United States, that the foregoing, consisting of 17 pages, numbered consecutively from 1 to 17, inclusive, is a true and complete transcript of all the records, process, pleadings, orders, final judgment and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said Court, and in accordance with a praecipe for such transcript, a copy whereof is included within said transcript; and I do further certify and return that I have annexed to said transcript, and included within said paging, the original Citation, together with the admission of service thereof.

In witness whereof, I have hereunto set my hand as the Clerk aforesaid, and affixed the seal of said Court, at St. Paul, in the District of Minnesota, this 11th day of August, A. D. 1917.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER, *Clerk.*

20 [Endorsed:] United States District Court, District of Minnesota, Third Division, No. 318. The United States vs. Alfred F. Grahl. Transcript of Record on Writ of Error.

Endorsed on cover: File No. 26,131. Minnesota D. C. U. S. Term No. 654. Alfred F. Grahl, plaintiff in error, vs. The United States of America. Filed September 7th, 1917. File No. 26,131.

CLERK'S COPY.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 665.

OTTO WANGERIN, PLAINTIFF IN ERROR,

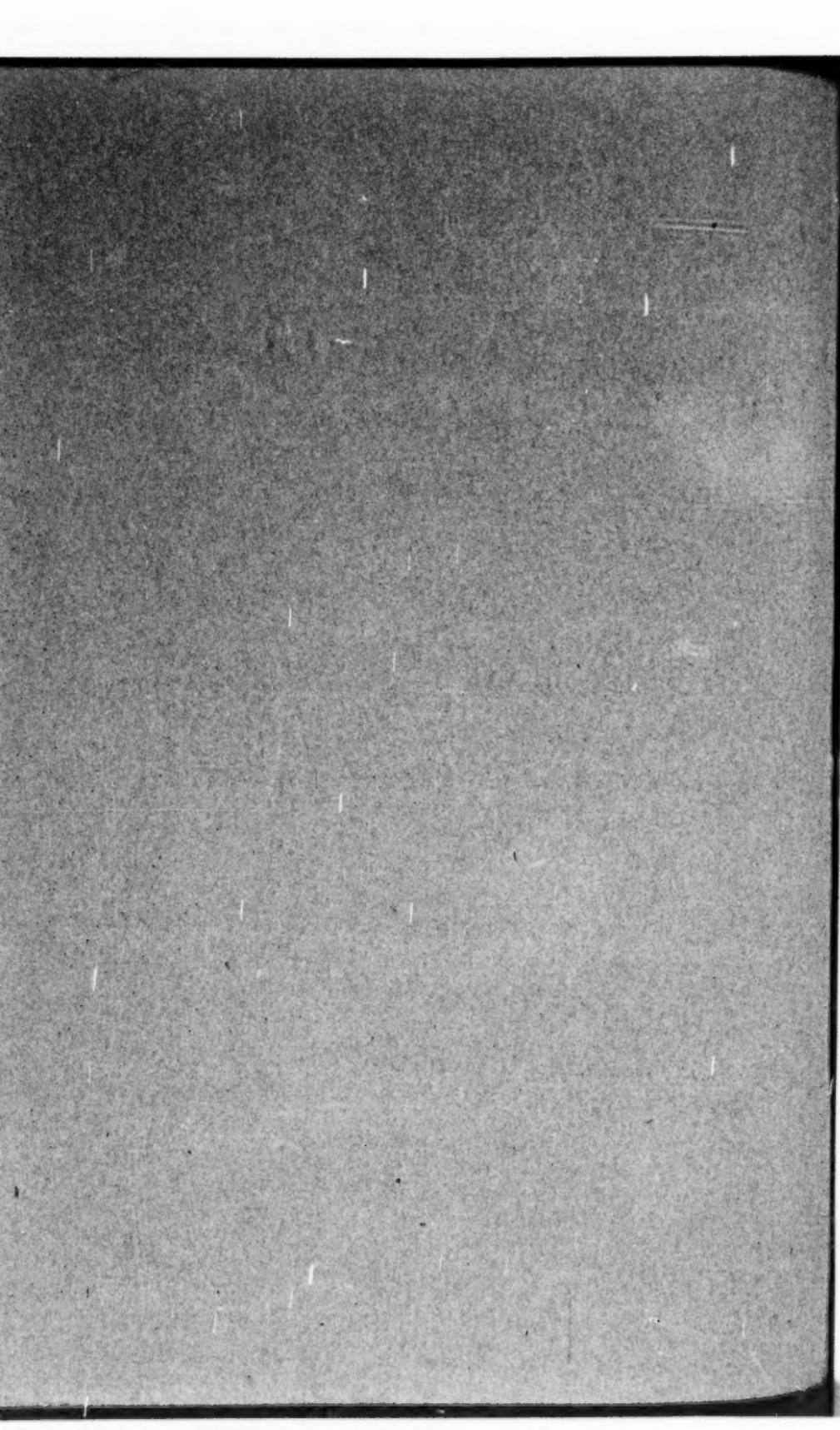
vs.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.**

FILED SEPTEMBER 7, 1917.

(26,132)



(26,132)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 665.

OTTO WANGERIN, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.

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1 United States District Court, District of Minnesota, Third Division.

No. 320.

THE UNITED STATES, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Pleas Before the Honorable the Judges of the United States District Court for the District of Minnesota.

June Term, A. D. 1917.

No. 320.

THE UNITED STATES, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Be it remembered, that on the 8th day of June, A. D. 1917, the Grand Jury of the United States of America in and for the District of Minnesota, Third Division, presented against Otto Wangerin, the defendant in the above entitled cause, their True Bill of Indictment in the words and figures following, to-wit:

The District Court of the United States of America for the District of Minnesota, Third Division.

At a stated term of the District Court of the United States of America for the District of Minnesota, begun and held at the City of St. Paul, within and for the District and Division aforesaid, on the first Tuesday in June, being the fifth day of June, in the year of our Lord one thousand nine hundred and seventeen, by a duly empanelled, charged and sworn Grand Jury of the United States of America within and for said District and Division, it is presented in manner and form following, that is to say:

2 UNITED STATES OF AMERICA.

District of Minnesota, Third Division, set:

The Grand Jurors of the United States of America within and for said District and Division, in the name and by the authority of the said United States of America, upon their oaths present, that heretofore, to wit: on the fifth day of June, A. D. 1917, at the City of St. Paul, in the County of Ramsey, in the State and District of Minnesota, and within the jurisdiction of this Court, one Otto

Wangerin, then and there being, late of said District, did then and there wrongfully, and unlawfully wilfully fail and refuse to register, and to present himself for registration, as required by Section five of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," and the Proclamation by the President of the United States under date of May 19, 1917, designating June 5, 1917, as registration day, and the regulations prescribed by the President; he, the said Otto Wangerin being then and there a male person between the ages of twenty-one and thirty years, both inclusive, and being then and there subject to registration, and not being an officer and enlisted man of the Regular Army, the Navy, the National Guard or Naval Militia while in the service of the United States; which is against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

J. M. DICKEY,
Assistant United States Attorney.

(Endorsed:) Indictment. A True Bill. P. K. Gilfillan, Foreman of the Grand Jury. Names of Witnesses examined before the Grand Jury, James H. Daley, L. C. Hodgson, T. E. Campbell, Alfred Jaques, United States Attorney. Filed June 8th, 1917. Charles L. Spencer, Clerk.

3 And thereafter, and on the 5th day of July, A. D. 1917, certain proceedings were had in said court in said cause, which were duly recorded in the words and figures following, to-wit:

United States District Court, District of Minnesota, Third Division.

Term Minutes, June Term, A. D. 1917.

JULY 5th, 1917.

Court opened pursuant to adjournment.

Present: Honorable Page Morris, Judge.

THE UNITED STATES OF AMERICA, Plaintiff,
against

OTTO WANGERIN, Defendant.

Judgment and Sentence.

Now, on this 5th day of July, A. D. 1917, the United States Attorney for the District of Minnesota, and the defendant in the above entitled action, Otto Wangerin, in his own proper person, come into open court, and the said United States Attorney moves the Court that judgment be now rendered against and sentence pro-

nounced upon said defendant in accordance with the verdict, heretofore duly rendered by a jury and entered in said action that said defendant is guilty as charged in the indictment in said action against said defendant for the crime of having wrongfully and unlawfully, wilfully failed and refused to register and present himself for registration as required by Section 5 of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," committed at St. Paul, in the County of Ramsey, in the State and District of Minnesota, on the 5th day of June, A. D. 1917; and said defendant is asked by the Court whether he has anything to say why judgment should not now be rendered and sentence pronounced as aforesaid, but neither he nor any one for him says anything in arrest thereof; whereupon, in accordance with said verdict,

it is by the Court

4 Considered and adjudged that said defendant is guilty of the crime aforesaid and that as punishment therefor said defendant be confined in the Minnesota State Reformatory, in said State, situated at St. Cloud, Minnesota, for the term of one (1) year and until he shall have been discharged from said reformatory by due course of law.

And thereafter, and on the 9th day of August, A. D. 1917, a certain bill of exceptions was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

5 United States District Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Bill of Exceptions.

Be it remembered that on the 8th day of June, 1917, at the City of Saint Paul, State of Minnesota, the Grand Jury of the United States of America within and for said District being duly empaneled, sworn and charged to inquire within and for said District of Minnesota, in the name and by the authority of the United States of America, upon their oaths did find and present as a true bill, an indictment charging that the above named defendant, Otto Wangerin, did wilfully fail and refuse to register and to present himself for registration as required by Section five of the Act of Congress approved May 18, 1917, entitled, "An Act to authorize the President to increase temporarily the Military establishment of the United States," and the Proclamation of the President of the United States under date of May 19th, 1917, designating June 5th, 1917, as registration day, and the regulations prescribed by the President.

That thereafter, on the 11th day of June, 1917, at such place said defendant Otto Wangerin, appeared in person and by his attorney T. E. Latimer, Esq., before the Honorable Page Morris, Judge of said Court, and being duly arraigned, thereupon entered 6 his plea to the said indictment herein, through his attorney, and did say that he is not guilty in manner and form as in and by said indictment he stands charged.

That thereupon the court ordered that defendant be given until two P. M. on the 13th day of June, 1917, to withdraw the said plea.

That thereafter on said 13th day of June, 1917, defendant Otto Wangerin, and his counsel, T. E. Latimer, Esq., appeared before the bar of this court and withdrew his plea of not guilty by leave of court, and did then and there demur to said indictment upon the following grounds, to-wit:

1. That the said indictment does not state facts sufficient to constitute an offense.

2. That the said Act of Congress and the Regulations prescribed by the President thereunder, set forth in said indictment, are in conflict with the terms and provisions of the 13th Amendment to the Constitution of the United States of America, and are therefore null and void.

3. That the said Act of Congress and the regulations prescribed thereunder, set forth in said indictment, are in conflict with the terms and provisions of Section one of Article One, and Section eight of Article One, of the Constitution of the United States of America, and therefore null and void.

That thereafter, on the 22nd day of June, 1917, the argument of said demurrer was heard before the Honorable Wilbur F. Booth, Judge of said Court; Defendant appearing by Herbert L. Dunn, and T. E. Latimer, his attorneys, and plaintiff, appearing by Alfred Jacques, Esq., United States District Attorney for the District of Minnesota; and having been submitted and duly and maturely considered by the Court, the court ordered: That the said demurrer to the indictment be and hereby is overruled, to which ruling the defendant did then and there duly except, and said exception was allowed by the court.

7 That thereupon defendant did again plead not guilty to said indictment, and the court set his trial for the 2nd day of July, 1917, at 10 O'clock A. M.

Thereafter, on the 2nd Day of July, 1917, at 10 O'clock A. M. said cause was called for trial before the Honorable Page Morris, Judge of said Court, and a jury of twelve good and lawful men, and the said plaintiff appearing by its attorney Alfred Jacques, Esq., and the defendant appearing by his attorneys, T. E. Latimer, Esq., and Herbert L. Dunn, Esq., and Herman W. Phillips, Esq., the following proceedings were had, that is to say:

Plaintiff introduced its evidence, and defendant rested without presenting any, whereupon the court charged the jury, and the jury retired, and brought in a verdict of guilty as charged in the indictment.

Thereupon judgment was rendered, and defendant sentenced to

nfinement for the period of one year in the County Jail of Ram-
County, Minnesota.

Thereafter on July 5th, 1917, defendant appearing in person and
his said counsel before the said trial Court, the said judgment
and sentence were in all things vacated and set aside, and thereupon
the court rendered judgment and sentenced defendant to confine-
ment in the Minnesota State Reformatory at St. Cloud, Minnesota,
for the period of one year.

It is hereby stipulated between the parties to this cause that the
above and foregoing may be settled, allowed and signed by the Judge
of this Court, and filed as the Bill of Exceptions in this cause.

Dated this 8 day of August, 1917.

ALFRED JAQUES,
U. S. Attorney,
Attorney for Plaintiff.
T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

Pursuant to the foregoing stipulation, tendering the above
as the Bill of Exceptions reserved by defendant upon the trial
of this cause, I hereby allow the same this 9th day of August, A. D.
1917.

PAGE MORRIS,
Judge of the United States District Court,
District of Minnesota.

(Endorsed:) Bill of Exceptions. Filed August 9th, 1917. Charles
Spence, Clerk.

And thereafter, and on the same day, a certain assignment of
error and prayer for reversal was filed in the office of the Clerk of
said Court in said cause in the words and figures following, to-wit:

District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Assignment of Error and Prayer for Reversal.

The defendant in this action in connection with his petition for
Writ of Error, makes and files the following assignment of error,
which he avers occurred upon the trial of the cause, to-wit:

1.

The court erred in overruling the demurrer of the defendant to the indictment.

Wherefore, the defendant for the error aforesaid prays that the judgment herein may be reversed, vacated and held for naught and that said defendant may be restored in all things to that which he has lost thereby.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Assignment of Error and Prayer for Reversal. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain petition for writ of error was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

10 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.

OTTO WANGERIN, Defendant.

Petition for Writ of Error.

And now comes Otto Wangerin, defendant herein, and says that on or about the fifth day of July, A. D. 1917, this Court entered judgment and sentence herein against this defendant, in which judgment, sentence and the proceedings had prior thereunto in this cause certain errors were committed to the prejudice of this defendant, all of which will more in detail appear from the assignments of error which is filed with this petition.

Wherefore, this defendant prays that a writ of error may issue in his behalf out of the Supreme Court of the United States, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated may be sent to the said Supreme Court of the United States.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Petition for Writ of Error. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain order allowing writ of error and fixing bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

11 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Order Allowing Writ of Error and Fixing Bond.

This 9th day of August, A. D. 1917, came the defendant by his attorney, and filed herein, and presented to the Court his petition, praying for the allowance of a Writ of Error, also that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the Writ of Error upon the defendant giving bond according to law in the sum of one thousand dollars (\$1000.00), which shall operate as an appearance bond.

PAGE MORRIS,

*Judge of District Court of the United States
for the District of Minnesota.*

(Endorsed:) Order allowing Writ of Error and fixing Bond.
Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain appearance bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

12

Appearance Bond.

Know all men by these presents:

That we, Otto Wangerin, as principal, and August Prohofsky and Frank A. Webster, as sureties, are held and firmly bound unto the United States of America in the full and just sum of one thousand dollars (\$1000.00), to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 8th day of August in the year of our Lord, 1917.

Whereas, lately at the June Term, A. D. 1917, of the District Court of the United States, for the District of Minnesota, in a suit pending in said Court between the United States of America, plaintiff, and Otto Wangerin, defendant, a judgment and sentence was rendered against the said defendant, Otto Wangerin, and the said

Otto Wangerin has obtained a Writ of Error from the Supreme Court of the United States, to reverse the judgment and sentence in the aforesaid cause, and a Citation directed to the said United States of America, citing and admonishing the United States of America, to be and appear in the Supreme Court of the United States, at the City of Washington, District of Columbia, thirty days from and after the date of said citation, which citation has been duly served. Now the condition of the above obligation is such that if the said Otto Wangerin, shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error and shall abide by and obey all orders made by the Supreme Court of the United States in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for 13 the District of Minnesota, Third Division, on such day or days as may be appointed for a retrial by said District Court and abide by and obey all orders made by said Court provided the judgment and sentence against him shall be reversed by the Supreme Court of the United States; then the above obligation shall be void, otherwise to remain in full force, virtue and effect.

OTTO WANGERIN,
AUGUST PROHOFSKY.
FRANK A. WEBSTER.

Signed, Sealed and Delivered in the Presence of

F. RATHSMANN,
FRED MILLER.

STATE OF MINNESOTA,
County of Ramsey, ss:

Be it known, that on this 8th day of August, A. D. 1917, came before me personally Otto Wangerin, August Prohofsky and Frank A. Webster to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[NOTARIAL SEAL.] FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission expires January 31, 1918.

STATE OF MINNESOTA,
County of Ramsey, ss:

August Prohofsky and Frank A. Webster, upon oath doth say, each for himself, that he is one of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota, and worth

the amount of two thousand dollars, above his debts and liabilities, and exclusive of his property which is exempt from execution.

AUGUST PROHOF SKY.
FRANK A. WEBSTER.

Subscribed and sworn to before me this 8th day of August, A. D. 1917.

[NOTARIAL SEAL.]

FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission Expires January 31, 1918.

The foregoing bond is hereby approved this 9th day of August, 1917.

PAGE MORRIS,
*Judge of the District Court of the United States,
District of Minnesota.*

14 (Endorsed:) Appearance Bond. Filed August 9th, 1917.
Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain citation, theretofore issued, was filed in the office of the Clerk of said Court in said cause which said citation here next follows:

15 The District Court of the United States, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Citation.

United States of America, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States of America, at the City of Washington, District of Columbia, thirty days from and after the day this citation bears date pursuant to a Writ of Error filed in the Clerk's office of the United States District Court, District of Minnesota, wherein Otto Wangerin is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment and sentence rendered against said plaintiff in error, as in said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Dated this 9th day of August, A. D. 1917.

PAGE MORRIS,
*Judge of the District Court of the United States
for the District of Minnesota.*

Due service of the foregoing citation upon me at St. Paul, Minnesota, on the 9th day of August, 1917, is hereby admitted.

ALFRED JAQUES,
*United States Attorney and
 Attorney for Plaintiff.*

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk U. S. District Court, District of Minnesota.

16 And thereafter, and on the same day, a certain praecipe for transcript of record was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

17 The District Court of the United States, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

Praecipe for Transcript of Record.

To the Clerk:

You are requested to make and forward a transcript of record to be filed in the Supreme Court of the United States pursuant to a Writ of Error allowed in the above entitled cause and to include in such transcript of record the following and no other copies of papers, to-wit:

1. Indictment.
2. Judgment and sentence.
3. Bill of Exceptions.
4. Assignments of Error.
5. Petition for Writ of Error.
6. Order allowing Writ of Error and Fixing Bond.
7. Appearance Bond on Writ of Error.
8. This Praecipe for transcript of record.

T. E. LATIMER &
 HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Praecipe for Transcript of Record. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a writ of error from the Supreme Court of the United States was filed in the office of the Clerk of said Court in said cause, which said writ of error and certificate of obedience thereto here next follows:

18 UNITED STATES OF AMERICA, ss:

The President of the United States of America to the Honorable the Judges of the District Court of the United States for the District of Minnesota, Third Division, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, at the June Term, 1917, thereof, between The United States of America, Plaintiff, and Otto Wangerin, Defendant, manifest error hath happened, to the great damage of the said Otto Wangerin as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, and then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the capitol in the City of Washington, District of Columbia, and filed in the office of the Clerk of the Supreme Court of the United States, on or before the 8th day of September, 1917, to the end that the record and proceedings aforesaid, being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 9th day of August, A. D. 1917.

Issued at office in St. Paul, Minnesota, with the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

Allowed by

PAGE MORRIS, Judge.

Filed August 9th, 1917.

CHARLES L. SPENCER,

Clerk U. S. District Court, District of Minnesota.

UNITED STATES OF AMERICA,

District of Minnesota, Third Division, ss:

In obedience to the command of the writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the records and proceedings in the within entitled cause, with all things concerning the same.

12 OTTO WANGERIN VS. THE UNITED STATES OF AMERICA.

In Witness Whereof, I hereto subscribe my name and affix the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

19 United States District Court, District of Minnesota, Third Division.

No. 320.

THE UNITED STATES, Plaintiff,

vs.

OTTO WANGERIN, Defendant.

I, Charles L. Spencer, Clerk of said Court, do hereby certify and return to the Honorable, the Supreme Court of the United States, that the foregoing, consisting of 17 pages, numbered consecutively from 1 to 17, inclusive, is a true and complete transcript of all the records, process, pleadings, orders, final judgment and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said Court, and in accordance with a praecipe for such transcript, a copy whereof is included within said transcript; and I do further certify and return that I have annexed to said transcript, and included within said paging, the original Citation, together with the admission of service thereof.

In witness whereof, I have hereunto set my hand as the Clerk aforesaid, and affixed the seal of said Court, at St. Paul, in the District of Minnesota, this 11th day of August, A. D. 1917.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER, *Clerk.*

20 [Endorsed:] United States District Court, District of Minnesota, Third Division. No. 320. The United States vs. Otto Wangerin. Transcript of Record on Writ of Error.

Endorsed on cover: File No. 26,132. Minnesota D. C. U. S. Term No. 665. Otto Wangerin, plaintiff in error, vs. The United States of America. Filed September 7th, 1917. File No. 26,132.

CLERK'S COPY.

TRANSCRIPT OF RECORD.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 666.

WALTER WANGERIN, PLAINTIFF IN ERROR,

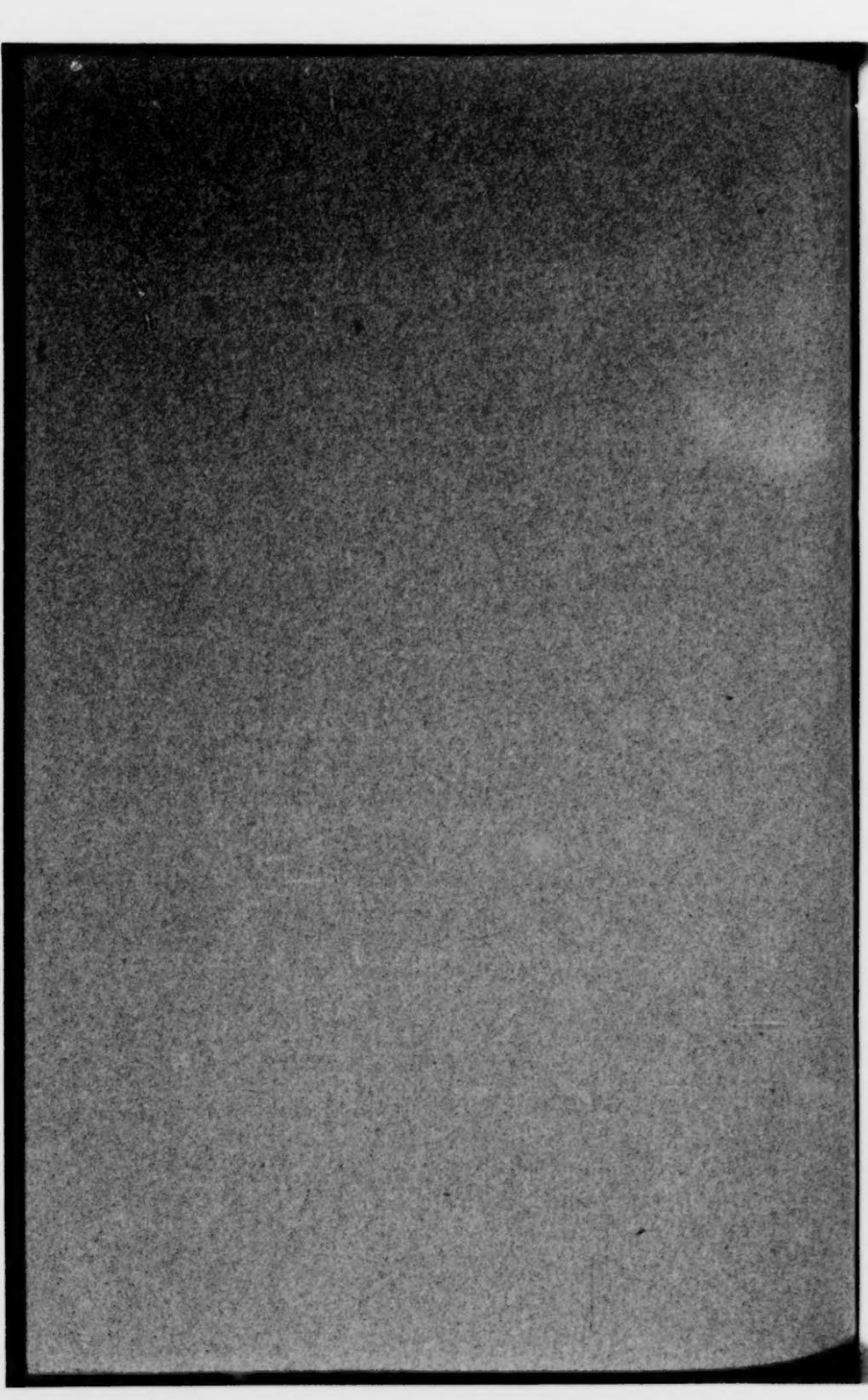
v.s.

THE UNITED STATES OF AMERICA.

**IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.**

FILED SEPTEMBER 7, 1917.

(26,133)



(26,133)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1917.

No. 666.

WALTER WANGERIN, PLAINTIFF IN ERROR,

vs.

THE UNITED STATES OF AMERICA.

IN ERROR TO THE DISTRICT COURT OF THE UNITED STATES FOR
THE DISTRICT OF MINNESOTA.

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United States District Court, District of Minnesota, Third Division.

No. 321.

THE UNITED STATES, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

Pleas Before the Honorable the Judges of the United States District Court for the District of Minnesota.

June Term, A. D. 1917.

No. 321.

THE UNITED STATES, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

Be it remembered, that on the 8th day of June, A. D. 1917, the Grand Jury of the United States of America in and for the District of Minnesota, Third Division, presented against Walter Wangerin, defendant in the above entitled cause, their True Bill of Indictment in the words and figures following, to-wit:

The District Court of the United States of America for the District of Minnesota, Third Division.

At a stated term of the District Court of the United States of America for the District of Minnesota, begun and held at the City of St. Paul, within and for the District and Division aforesaid, on the first Tuesday in June, being the fifth day of June, in the year of our Lord one thousand nine hundred and seventeen, by a duly empanelled, charged and sworn Grand Jury of the United States of America within and for said District and Division, it is presented in manner and form following, that is to say:

2 UNITED STATES OF AMERICA,
District of Minnesota, Third Division, set:

The Grand Jurors of the United States of America within and for said District and Division, in the name and by the authority of the said United States of America, upon their oaths present, that heretofore, to wit: on the fifth day of June, A. D. 1917, at the City of St. Paul, in the County of Ramsey, in the State and District of Minnesota, and within the jurisdiction of this Court, one Walter

Wangerin, then and there being, late of said District, did then and there wrongfully, and unlawfully wilfully fail and refuse to register, and to present himself for registration, as required by Section five of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," and the Proclamation by the President of the United States under date of May 19, 1917, designating June 5, 1917, as registration day, and the regulations prescribed by the President; he, the said Walter Wangerin being then and there a male person between the ages of twenty-one and thirty years, both inclusive, and being then and there subject to registration, and not being an officer and enlisted man of the Regular Army, the Navy, the National Guard or Naval Militia while in the service of the United States; which is against the peace and dignity of the United States, and contrary to the form of the statute in such case made and provided.

J. M. DICKEY,
Assistant United States Attorney.

(Endorsed:) Indictment. A True Bill. P. K. Gilligan, Foreman of the Grand Jury. Names of Witnesses examined before the Grand Jury, James H. Daley, L. C. Hodgson, T. E. Campbell, Alfred Jaques, United States Attorney. Filed June 8th, 1917. Charles L. Spencer, Clerk.

3 And thereafter, and on the 5th day of July, A. D. 1917, certain proceedings were had in said court in said cause, which were duly recorded in the words and figures following, to-wit:

United States District Court, District of Minnesota, Third Division,

Term Minutes, June Term, A. D. 1917.

JULY 5th, 1917.

Court opened pursuant to adjournment.

Present: Honorable Page Morris, Judge,

THE UNITED STATES OF AMERICA, Plaintiff,
against

WALTER WANGERIN, Defendant.

Judgment and Sentence.

Now, on this 5th day of July, A. D. 1917, the United States Attorney for the District of Minnesota, and the defendant in the above entitled action, Walter Wangerin, in his own proper person, come into open court, and the said United States Attorney moves the Court that judgment be now rendered against and sentence pro-

nounced upon said defendant in accordance with the verdict, heretofore duly rendered by a jury and entered in said action that said defendant is guilty as charged in the indictment in said action against said defendant for the crime of having wrongfully and unlawfully, wilfully failed and refused to register and present himself for registration as required by Section 5 of the Act of Congress approved May 18, 1917, entitled "An Act to Authorize the President to increase temporarily the Military Establishment of the United States," committed at St. Paul, in the County of Ramsey, in the State and District of Minnesota, on the 5th day of June, A. D. 1917; and said defendant is asked by the Court whether he has anything to say why judgment should not now be rendered and sentence pronounced as aforesaid, but neither he nor any one for him says anything in arrest thereof; whereupon, in accordance with said verdict, it is by the Court

4 Considered and adjudged that said defendant is guilty of the crime aforesaid and that as punishment therefor said defendant be confined in the Minnesota State Reformatory, in said State, situated at St. Cloud, Minnesota, for the term of one (1) year and until he shall have been discharged from said reformatory by due course of law.

And thereafter, and on the 9th day of August, A. D. 1917, a certain bill of exceptions was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

5 United States District Court, District of Minnesota, Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

Bill of Exceptions.

Be it remembered that on the 8th day of June, 1917, at the City of Saint Paul, State of Minnesota, the Grand Jury of the United States of America within and for said District being duly empaneled, sworn and charged to inquire within and for said District of Minnesota, in the name and by the authority of the United States of America, upon their oaths did find and present as a true bill, an indictment charging that the above named defendant, Walter Wangerin, did wilfully fail and refuse to register and to present himself for registration as required by Section five of the Act of Congress approved May 18, 1917, entitled, "An Act to authorize the President to increase temporarily the Military establishment of the United States," and the Proclamation of the President of the United States under date of May 19th, 1917, designating June 5th, 1917, as registration day, and the regulations prescribed by the President.

That thereafter, on the 11th day of June, 1917, at such place said defendant Walter Wangerin, appeared in person and by his attorney T. E. Latimer, Esq., before the Honorable Page Morris, Judge of said Court, and being duly arraigned, thereupon entered 6 his plea to the said indictment herein, through his attorney, and did say that he is not guilty in manner and form as in and by said indictment he stands charged.

That thereupon the court ordered that defendant be given until two P. M. on the 13th day of June, 1917, to withdraw the said plea.

That thereafter on said 13th day of June, 1917, defendant Walter Wangerin, and his counsel, T. E. Latimer, Esq., appeared before the bar of this court and withdrew his plea of not guilty by leave of court, and did then and there demur to said indictment upon the following grounds, to-wit:

1. That the said indictment does not state facts sufficient to constitute an offense.

2. That the said Act of Congress and the Regulations prescribed by the President thereunder, set forth in said indictment, are in conflict with the terms and provisions of the 13th Amendment to the Constitution of the United States of America, and are therefore null and void.

3. That the said Act of Congress and the regulations prescribed thereunder, set forth in said indictment, are in conflict with the terms and provisions of Section one of Article One, and Section eight of Article One, of the Constitution of the United States of America, and therefore null and void.

That thereafter, on the 22nd day of June, 1917, the argument of said demurrer was heard before the Honorable Wilbur F. Booth, Judge of said Court; Defendant appearing by Herbert L. Dunn, and T. E. Latimer, his attorneys, and plaintiff, appearing by Alfred Jacques, Esq., United States District Attorney for the District of Minnesota; and having been submitted and duly and maturely considered by the Court, the court ordered: That the said demurrer to the indictment be and hereby is overruled, to which ruling the defendant did then and there duly except, and said exception was allowed by the court.

7 That thereupon defendant did again plead not guilty to said indictment, and the court set his trial for the 2nd day of July, 1917, at 10 O'clock A. M.

Thereafter, on the 2nd Day of July, 1917, at 10 O'clock A. M., said cause was called for trial before the Honorable Page Morris, Judge of said Court, and a jury of twelve good and lawful men, and the said plaintiff appearing by its attorney Alfred Jacques, Esq., and the defendant appearing by his attorneys, T. E. Latimer, Esq., and Herbert L. Dunn, Esq., and Herman W. Phillips, Esq., the following proceedings were had, that is to say:

Plaintiff introduced its evidence, and defendant rested without presenting any, whereupon the court charged the jury, and the jury retired, and brought in a verdict of guilty as charged in the indictment.

Thereupon judgment was rendered, and defendant sentenced to

confinement for the period of one year in the County Jail of Ramsey County, Minnesota.

Thereafter on July 5th, 1917, defendant appearing in person and by his said counsel before the said trial Court, the said judgment and sentence were in all things vacated and set aside, and thereupon the court rendered judgment and sentenced defendant to confinement in the Minnesota State Reformatory at St. Cloud, Minnesota, for the period of one year.

It is hereby stipulated between the parties to this cause that the above and foregoing may be settled, allowed and signed by the Judge of this Court, and filed as the Bill of Exceptions in this cause.

Dated this 8 day of August, 1917.

ALFRED JAQUES,
U. S. Attorney,
Attorney for Plaintiff.
T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

8 Pursuant to the foregoing stipulation, tendering the above as the Bill of Exceptions reserved by defendant upon the trial of this cause, I hereby allow the same this 9th day of August, A. D. 1917.

PAGE MORRIS.
Judge of the United States District Court,
District of Minnesota.

(Endorsed:) Bill of Exceptions. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain assignment of error and prayer for reversal was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

9 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.
WALTER WANGERIN, Defendant.

Assignment of Error and Prayer for Reversal.

The defendant in this action in connection with his petition for a Writ of Error, makes and files the following assignment of error, which he avers occurred upon the trial of the cause, to-wit:

1.

The court erred in overruling the demurrer of the defendant to the indictment,

Wherefore, the defendant for the error aforesaid prays that the judgment herein may be reversed, vacated and held for naught and that said defendant may be restored in all things to that which he has lost thereby.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Assignment of Error and Prayer for Reversal. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain petition for writ of error was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

19 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.

WALTER WANGERIN, Defendant.

Petition for Writ of Error.

And now comes Walter Wangerin, defendant herein, and says that on or about the fifth day of July, A. D. 1917, this Court entered judgment and sentence herein against this defendant, in which judgment, sentence and the proceedings had prior thereto in this cause certain errors were committed to the prejudice of this defendant, all of which will more in detail appear from the assignments of error which is filed with this petition.

Wherefore, this defendant prays that a writ of error may issue in his behalf out of the Supreme Court of the United States, for the correction of errors so complained of, and that a transcript of the record, proceedings and papers in this cause, duly authenticated may be sent to the said Supreme Court of the United States.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Petition for Writ of Error. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain order allowing writ of error and fixing bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

11 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

Order Allowing Writ of Error and Fixing Bond.

This 9th day of August, A. D. 1917, came the defendant by his attorney, and filed herein, and presented to the Court his petition, and assignments of error intended to be urged by him, praying for the allowance of a Writ of Error and that a transcript of the record and proceedings and papers upon which the judgment herein was rendered, duly authenticated, may be sent to the Supreme Court of the United States, and that such other and further proceedings may be had as may be proper in the premises.

On consideration whereof, the Court does allow the Writ of Error upon the defendant giving bond according to law in the sum of one thousand dollars (\$1000.00), which shall operate as an appearance bond.

PAGE MORRIS,

*Judge of District Court of the United States,
for the District of Minnesota.*

(Endorsed:) Order allowing Writ of Error and fixing Bond.
Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain appearance bond was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

12

Appearance Bond.

Know all men by these presents:

That we, Walter H. Wangerin, as principal, and Herman H. Hellhake, as sureties, are held and firmly bound unto the United States of America in the full and just sum of one thousand dollars (\$1000.00), to be paid to the United States of America, to which payment well and truly to be made we bind ourselves, our heirs, executors and administrators jointly and severally by these presents.

Sealed with our seals and dated this 8th day of August in the year of our Lord, 1917.

Whereas, lately at the June Term, A. D. 1917, of the District Court of the United States, for the District of Minnesota, in a suit pending in said Court between the United States of America, plaintiff, and Walter Wangerin, defendant, a judgment and sentence ren-

dered against the said defendant, Walter H. Wangerin, and the said Walter H. Wangerin has obtained a writ of Error from the Supreme Court of the United States, to reverse the judgment and sentence in the aforesaid cause, and a Citation directed to the said United States of America, citing and admonishing the United States of America, to be and appear in the Supreme Court of the United States, at the City of Washington, District of Columbia, thirty days from and after the date of said citation, which citation has been duly served. Now the condition of the above obligation is such that if the said Walter H. Wangerin, shall appear either in person or by attorney in the Supreme Court of the United States on such day or days as may be appointed for the hearing of said cause in said court and prosecute his said writ of error and shall abide by and obey all orders made by the Supreme Court of the United States in said cause, and shall surrender himself in execution of the judgment and sentence appealed from as said court may direct, if the judgment and sentence against him shall be affirmed, and if he shall appear for trial in the District Court of the United States for
13 the District of Minnesota, Third Division, on such day or days as may be appointed for a retrial by said District Court and abide by and obey all orders made by said Court provided the judgment and sentence against him shall be reversed by the Supreme Court of the United States; then the above obligation shall be void, otherwise to remain in full force, virtue and effect.

WALTER H. WANGERIN,
HERMAN H. HELLAKE.

Signed, Sealed and Delivered in the Presence of

G. H. HELLAKE.
FRED MILLER.

STATE OF MINNESOTA,

County of Ramsey, ss:

Be it known, that on this 8th day of August, A. D. 1917, came before me personally Walter H. Wangerin and Herman H. Hellhake to me well known to be the same persons who executed the foregoing bond, and each severally acknowledged the same to be his own free act and deed.

[NOTARIAL SEAL.]

FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission expires January 31, 1918.

STATE OF MINNESOTA,

County of Ramsey, ss:

Herman H. Hellhake and —— ——, upon oath doth say, each for himself, that he is one of the sureties above named; that he is a resident and freeholder of and in the State of Minnesota, and worth the

amount of two thousand dollars, above his debts and liabilities, and exclusive of his property which is exempt from execution.

H. H. HELLIAKE.

Subscribed and sworn to before me this 8th day of August, A. D. 1917.

[NOTARIAL SEAL.]

FRED MILLER,
Notary Public, Ramsey County, Minn.

My Commission Expires January 31, 1918.

The foregoing bond is hereby approved this 9th day of August, 1917.

PAGE MORRIS,
*Judge of the District Court of the United States,
District of Minnesota.*

14 (Endorsed:) Appearance Bond. Filed August 9th, 1917.
Charles L. Spencer, Clerk.

And thereafter, and on the same day, a certain citation, theretofore issued, was filed in the office of the Clerk of said Court in said cause which said citation here next follows:

15 District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

Citation.

United States of America, Greeting:

You are hereby cited and admonished to be and appear in the Supreme Court of the United States of America, at the City of Washington, District of Columbia, thirty days from and after the day this citation bears date pursuant to a Writ of Error filed in the office of the Clerk of the United States District Court, for the District of Minnesota, wherein Walter Wangerin is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment and sentence rendered against said plaintiff in error, as in said Writ of Error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Dated this 9th day of August, A. D. 1917.

PAGE MORRIS,
*Judge of the District Court of the United States
for the District of Minnesota.*

Due service of the foregoing citation upon me at St. Paul, Minnesota, on the 9th day of August, 1917, is hereby admitted.

ALFRED JAQUES,
*United States Attorney and
Attorney for Plaintiff.*

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk, U. S. District Court, District of Minnesota.

16 And thereafter, and on the same day, a certain praecipe for transcript of record was filed in the office of the Clerk of said Court in said cause in the words and figures following, to-wit:

17 The District Court of the United States, District of Minnesota,
Third Division.

UNITED STATES OF AMERICA, Plaintiff,
vs.

WALTER WANGERIN, Defendant.

Praecipe for Transcript of Record.

To the Clerk:

You are requested to make and forward a transcript of record to be filed in the Supreme Court of the United States pursuant to a Writ of Error allowed in the above entitled cause and to include in such transcript of record the following and no other copies of papers, to-wit:

1. Indictment.
2. Judgment and sentence.
3. Bill of Exceptions.
4. Assignments of Error.
5. Petition for Writ of Error.
6. Order allowing Writ of Error and Fixing Bond.
7. Appearance Bond on Writ of Error.
8. This Praecepice for transcript of record.

T. E. LATIMER &
HERBERT L. DUNN,
Attorneys for Defendant.

(Endorsed:) Praecepice for Transcript of Record. Filed August 9th, 1917. Charles L. Spencer, Clerk.

And thereafter, and on the same day, a writ of error from the Supreme Court of the United States was filed in the office of the Clerk of said Court in said cause, which said writ of error and certificate of obedience thereto here next follows:

18 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the Honorable the Judges of the District Court of the United States for the District of Minnesota, Third Division, Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, at the June Term, 1917, thereof, between The United States of America, Plaintiff and Walter Wangerin, Defendant, manifest error hath happened, to the great damage of the said Walter Wangerin as by his complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, and then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the said record and proceedings aforesaid at the capitol in the City of Washington, District of Columbia, and filed in the office of the Clerk of the Supreme Court of the United States, on or before the 8th day of September, 1917, to the end that the record and proceedings aforesaid, being inspected, the Supreme Court of the United States may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 9th day of August, A. D. 1917.

Issued at office in St. Paul, Minnesota, with the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

Allowed by

PAGE MORRIS, *Judge.*

Filed August 9th, 1917.

CHARLES L. SPENCER,
Clerk, U. S. District Court, District of Minnesota.

UNITED STATES OF AMERICA,

District of Minnesota, Third Division, ss:

In obedience to the command of the writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the records and proceedings in the within entitled cause, with all things concerning the same.

12 WALTER WANGERIN VS. THE UNITED STATES OF AMERICA.

In Witness Whereof, I hereto subscribe my name and affix the seal of the District Court of the United States for the District of Minnesota, Third Division.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER,
*Clerk of the District Court of the United States
of America for the District of Minnesota.*

19 United States District Court, District of Minnesota, Third Division.

No. 321.

THE UNITED STATES, Plaintiff,

vs.

WALTER WANGERIN, Defendant.

I, Charles L. Spencer, Clerk of said Court, do hereby certify and return to the Honorable, the Supreme Court of the United States, that the foregoing, consisting of 17 pages, numbered consecutively from 1 to 17, inclusive, is a true and complete transcript of all the records, process, pleadings, orders, final judgment and all other proceedings in said cause and of the whole thereof, as appears from the original records and files of said Court, and in accordance with a preceipe for such transcript, a copy whereof is included within said transcript; and I do further certify and return that I have annexed to said transcript, and included within said paging, the original Citation, together with the admission of service thereof.

In witness whereof, I have hereunto set my hand as the Clerk aforesaid, and affixed the seal of said Court, at St. Paul, in the District of Minnesota, this 11th day of August, A. D. 1917.

[U. S. Dist. Court Seal, Dist. of Minnesota, Third Division.]

CHARLES L. SPENCER, *Clerk.*

20 [Endorsed:] United States District Court, District of Minnesota, Third Division, No. 321. The United States vs. Walter Wangerin. Transcript of Record on Writ of Error.

Endorsed on cover: File No. 26,133. Minnesota D. C. U. S. Term No. 666. Walter Wangerin, plaintiff in error, vs. The United States of America. Filed September 7th, 1917. File No. 26,133.